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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/078,853	05/14/1998	YASUSHI TAKAHASHI	450100-4486	7718

20999 7590 12/18/2002

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EXAMINER

BROWN, RUEBEN M

ART UNIT PAPER NUMBER

2611

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/078,853

Applicant(s)

TAKAHASHI ET AL.

Examiner

Brown M. Reuben

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,3-7 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 3-7 & 9-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/3/2002 have been fully considered but they are not persuasive. Applicant argues that Herz does not read on the amended claimed features because Herz uses a single model rather than three viewing models. Applicant at least acknowledges that Herz is similar to the present invention, but asserts that the single customer profile of Herz is different from the three separate models of the present invention. Examiner respectfully disagrees with applicant's assertion. In particular, the present invention recites a general user model based on statistical data obtained by audience research; an initial user model based on an input user profile and the general user model; and a study user model based on a user's viewing history and the initial user model.

First of all examiner points out that Herz discloses that among other criteria, demographic data for a plurality of users may be obtained and used for specific customers to generate an initial profile; see col. 4, lines 44-62; col. 11, lines 58-64; col. 13, lines 55-65 & col. 34, lines 20-24; col. 38, lines 18-30. Therefore the above passages of Herz meets the claimed features of the initial user model based on general user selection data and a user profile. The claimed study user model that additionally includes selection history is also clearly disclosed by Herz; see col. 6, lines 35-60.

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Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 & 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz, (U.S. Pat # 5,758,257).

Considering claim 1, the amended claimed information retrieval method comprising the steps of forming a general user model based upon statistical data obtained by audience research on the actions of a plurality of users, reads on the use of demographic data discussed in Herz when generating an initial customer profile, see col. 11, lines 61-67; col. 38, lines 18-25. The further claimed initial user model forming a user specific model based upon the general user model and a user profile, is met by Herz, col. 4, lines 32-55, which teaches that the initial customer profile may include demographic data, as well as a profile based upon user feedback data. Furthermore, Herz discusses adjusting the customer profile, (col. 13, lines 55-67; col. 14, lines 48-55 & col. 22, lines 56-67).

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The additionally claimed feature of forming a study user model based upon the initial user model and information selection history of the specific user is consistent with the teachings of Herz, see col. 29, lines 45-65; col. 30, lines 1-10 & col. 33, lines 12-21. Herz is directed to updating a customer's profile based upon the programs that are actually watched, col. 6, lines 35-60. The teachings of Herz, with respect to the agreement matrix, which utilizes an adjusted customer profile to generate and present a list of programs that the customer might likely desire, reads on the further claimed feature of retrieving information suiting the specific user based upon the study user model, see col. 19, lines 5-14; col. 40, lines 32-65.

Considering claim 7, the claimed information retrieval apparatus comprises elements, which correspond with subject matter, mentioned above in the rejection of claim 1, and are likewise rejected.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-6 & 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz.

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Considering claims 3-6 & 9-14, the claimed features are suggested by the disclosure of Herz, which teaches that the general profile is developed from a combination of demographic and user selection data from a range of customers, (col. 9, lines 61-65; col. 11, lines 45-67). However, Herz does not specifically discuss the mathematical algorithm used to derive the customer profile based upon demographic data. Nevertheless, Official Notice is taken that at the time the invention was made, interpolating data to form a continuous curve was known in the art, and is generally used to fill in the gaps, i.e., estimate unknown points on a curve. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to operate Herz in a manner wherein the demographic profile the customer is assigned may be based upon a mathematical model, for instance a curve, such that points on the curve are estimated, at least for the known advantage of starting the user with a profile that is at least similar to the preference of the customer.

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Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications intended for entry)

Or:

(703) 872-9314 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")


*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Reuben. M. Brown, whose telephone number is (703) 305-2399.
The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the
organization where this application or proceeding is assigned is (703) 872-9314 for regular
communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600